

**REMARKS**

Claims 1, 2, 4, 7-11, 17, 18, 20, 23-27, 33-35, 37, 41,45-47, 49, 53, 81-83, 85, 88, 89, 91, 95-97, 99, 102, 103, 105, 109, 110, 112-118, 120-128, 130-135, 137-141, 143-147, and 149-155 are pending in the application. Claims 1, 2, 4, 7-11, 17, 18, 20, 23-27, 33-35, 37, 41,45-47, 49, 45-47, 49, 53, 81-83, 85, 88, 89, 91, 95-97, 99, 102, 103, 105, 109, 110, 112-118, 120-128, 130-135, 137-141, 143-147, and 149-155 have been rejected. A Notice of Appeal was filed on May 16, 2008. Applicant withdraw the Application from appeal and submit the following remarks and preceding claim amendments. Applicant herein amends claims 1,2, 4, 7, 9, 17, 18, 20, 23, 25, 33-35, 41, 45-47, 53, 81-83, 91, 95-97, 105, 109-110, 113-115, 117, 118, 121-123, 125-128, 132-135, 139, 145-146, and 150-155. No new matter has been added. Further examination and review is respectfully requested.

**ARGUMENT**

**Applicant respectfully traverses the Examiner's rejections of claims 1 ,9, 17, 25, 81, and 95 under 35 U.S.C. § 102(b) as being allegedly anticipated by Darling.**

***Rejections under 35 USC §102***

***Claim 1***

Claim 1 is rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Darling (WO 93/23125).

Applicant respectfully submits that Darling does not disclose the subject matter recited in claim 1 and respectfully traverses the rejection. Applicant has amended claim 1 to recite in part:

receiving, by a first terminal, identification information from one or more remote terminals;

comparing, by the first terminal, the identification information received from the one or more remote terminals to a list of names stored in persistent memory of the first terminal;

identifying, based on the comparison, one or more names stored in the list that are associated with the one or more remote terminals;

executing, by the first terminal, a game;

displaying, by the first terminal, the one or more names on a display;

Applicant submits that at least this subject matter is not taught or suggested by the art of record. Applicant respectfully submits that pages 10 and 11 of Darling teach transmitting game play information between devices that are currently in a game, that is, this portion of Darling is referring to ongoing games, and is not related identifying names stored in persistent memory that are associated with information received from remote terminals. Applicant submits that in Darling a logon packet that indicates the device's identity is transmitted to another device. This logon packet is then processed by the other device and the other device uses the information from the packet to identify devices for a game. (See Darling p.14 and basic packet information described on p. 18). Applicant submits that this fails to teach or suggest "comparing, by the first terminal, the identification information received from the one or more remote terminals to a list of names stored in persistent memory of the first terminal; [and] identifying, based on the comparison, one or more names stored in the list that are associated with the one or more remote terminals." Accordingly, for at least this reason, Applicant respectfully requests reconsideration of the rejection of claim 1.

Insomuch as claims 2, 4, 7, 8 – 11 depend directly or indirectly from claim 1 they too patentably define over the references for at least similar reasons as claim 1. Accordingly, for at least the reasons discussed with respect to the rejection of claim 1, Applicant respectfully requests reconsideration of the rejections of claims 2, 4, 7, 8 – 11.

Independent claims 17, 81, 95, 109, 117, 151, and 152 recite similar elements to those of claim 1 and also patentably define over Darling for at least the above stated reasons with respect to claim 1. Accordingly, Applicant respectfully requests reconsideration of the rejections of claims 17, 81, 95, 109, 117, 151, and 152.

Insomuch as claims 18, 20, 23, 25, 26, 27, 82, 83, 85, 88, 89, 91, 96, 97, 99, 102, 103, 105, 110, 112-116, 118, 120-124, 153, and 154 depend directly or indirectly from claims 17, 81, 95, 109, 117, 151, or 152 they too patentably define over the cited art for at least the above stated reasons with respect to claim 1. Accordingly, Applicant respectfully requests reconsideration of these rejections.

***Rejections under 35 USC §103***

**Applicant respectfully traverses the Examiner's rejections of claims 2, 4, 7, 8, 10, 20, 23, 24, 26, 33, 35, 37, 41, 45, 47, 49, 53, 82, 83, 85, 89, 91, 96, 97, 99, 103, 105, 109, 110, 112, 113, 114, 117, 118, 120, 121, 122, 125, 126, 128, 130, 132, 133, 125, 137, 139, 140, 141, 143, 145, 146, 147, 149, 151, 152, 154, and 155.**

**Claim 7 and 8**

Claim 7 and 8 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious over Darling in view of Online Monopoly and Tanskanen.

Applicant submits that claims 7 and 8 additionally define over Darling in view of Online Monopoly and Tanskanen for at least one additional reason. In order to prove a *prima facie* case of obviousness the Examiner must provide a reason as to why one of skill would combine the references in the manner claimed. *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 167 L.Ed.2d 705, 82 USPQ2d 1385, 1391 (2007). Applicant respectfully submits that the Examiner has not provided a sufficient reason as to why one of skill in the art at the time of invention would combine DTMF signals of Tanskanen with the packet based communication feature of Darling and send the packets over an inband portion of a voice channel. Assuming *arguendo* that the Examiner has established a *prima facie* case of obviousness, Applicant submit that the combination of Darling and Tanskanen is improper because Darling teaches away from such combination.

In the Office Action the Examiner stated that page 17, paragraph 4 of Darling teaches that any suitably adapted communications protocol can be used to transmit data and that a suitably adapted communications protocol can be a wireless telephone line using a DTMF signal as taught by Tanskanen and that one would combine them to “achieve the predicable result of a wireless gaming system which utilizes inband DTMF signals as a data transmission means.” (Office Action at p. 4-5). The Advisory action also states that using DTMF with Darling is obvious because “data packets are a form of information consisting of 1’s and 0’s which essentially is what DTMF signals are.” (Advisory Action dated 5-22-08). Applicant submits that Darling teaches away from using DTMF signals and instead teaches using data packets. The actual text of Darling states “data packets can be transmitted using any suitably adapted communications protocol known to those skilled in the art.” (Darling p. 17, paragraph 4) (Emphasis added). Applicant submits that this statement would lead one of skill in the art to use a suitably adapted communications protocol such as TCP or UDP not DTMF. Furthermore, Applicant submits that the Examiner is confusing packet based communication techniques with point to point communication techniques. In point to point systems the data is transmitted as a series of bytes or bits for example. On the other hand, in packet based systems the packet payload is associated with a header that contains information such as the source and destination address. To say that DTMF signals are the same as packets because they both use 1s and 0s over simplifies the differences between both technologies. Since Darling teaches away from the claimed embodiments it is inappropriate

to combine the references. (*See, e.g., In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)). Accordingly, for at least this additional reason Applicant respectfully requests reconsideration of the rejection of claims 7 and 8.

Insomuch as claims 23 and 24 recite similar elements as claims 7 and 8 they too patentably define over the combination of references for at least similar reasons as claims 7 and 8. Accordingly, Applicant respectfully requests reconsideration of the rejections of claims 23 and 24.

### **Claim 33**

Claim 33 stands rejected under 35 U.S.C. § 103(a) as allegedly obvious over Darling in view of Online Monopoly and Tanskanen.

Similar to that described above with respect to claims 7 and 8, in order to prove a prima facie case of obviousness the Examiner must provide a reason as to why one of skill would combine the references in the manner claimed. *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 167 L.Ed.2d 705, 82 USPQ2d 1385, 1391 (2007). Applicant respectfully submits that the Examiner has not provided a sufficient reason as to why one of skill in the art at the time of invention would combine DTMF signals of Tanskanen with the packet based communication feature of Darling and send the packets over an inband portion of a voice channel. Assuming arguendo that the Examiner has established a *prima facie* case of obviousness, Applicant submit that the combination of Darling and Tanskanen is improper because Darling teaches away from such combination.

In the Office Action the Examiner stated that page 17, paragraph 4 of Darling teaches that any suitably adapted communications protocol can be used to transmit data and that a suitably adapted communications protocol can be a wireless telephone line using a DTMF signal as taught by Tanskanen and that one would combine them to “achieve the predicable result of a wireless gaming system which utilizes inband DTMF signals as a data transmission means.” (Office Action at p. 4-5). The Advisory action also states that using DTMF with Darling is obvious because “data packets are a form of information consisting of 1’s and 0’s which essentially is what DTMF signals are.” (Advisory Action dated 5-22-08). Applicant submits that Darling teaches away from using DTMF signals and instead teaches using data packets. The actual text of Darling states “data packets can be transmitted using any suitably adapted communications protocol known to those skilled in the art.” (Darling p.

17, paragraph 4) (Emphasis added). Applicant submits that this statement would lead one of skill in the art to use a suitably adapted communications protocol such as TCP or UDP not DTMF. Furthermore, Applicant submits that the Examiner is confusing packet based communication techniques with point to point communication techniques. In point to point systems the data is transmitted as a series of bytes or bits for example. On the other hand, in packet based systems the packet payload is associated with a header that contains information such as the source and destination address. To say that DTMF signals are the same as packets because they both use 1's and 0's over simplifies the differences between both technologies. Since Darling teaches away from the claimed embodiment it is inappropriate to combine the references. (*See, e.g., In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)). Accordingly, for at least this reason Applicant respectfully requests reconsideration of the rejection of claim 33.

Insomuch as claims 34, 35, 37, 41 depend directly or indirectly from claim 33 they too patentably define over the combination of references. Accordingly, for at least this reason Applicant respectfully requests reconsideration of the rejections of claims 34, 35, 37, 41.

Independent claims 45, 81, 95, 109, 117, 125, 132, 139, 145, 151, 153, and 155 recite similar elements to those of claim 33 and patentably define over the combination of references for at least similar reasons as claim 33. Accordingly, Applicant respectfully requests reconsideration of the rejections of claims 45, 81, 95, 109, 117, 125, 132, 139, 145, 151, 153, and 155.

Insomuch as claims 46, 47, 49, 53, 82, 83, 85, 88, 89, 91, 96-99, 102, 103, 105, 110, 112-116, 118, 120-124, 126-128, 130-131, 133-135, 137, 138, 140, 141, 143, 144, 146, 147, 149, 150, and 154 depend directly or indirectly from claims 45, 81, 95, 109, 117, 125, 132, 139, 145, 151, 153, and 155 they too patentably define over the combination of references. Accordingly, Applicant respectfully requests reconsideration of the rejections of claims 46, 47, 49, 53, 126-128, 130-131, 133-135, 137, 138, 140, 141, 143, 144, 146, 147, 149, 150, and 154.

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**PATENT**

### **CONCLUSION**

Applicants request the Examiner reconsider the rejections and issue a Notice of Allowance of all the claims.

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